

APPEAL NO. 040406  
FILED APRIL 9, 2004

This appeal arises pursuant to the Texas Workers' Compensation Act, TEX. LAB. CODE ANN. § 401.001 *et seq.* (1989 Act). A contested case hearing was held on January 28, 2004. The hearing officer resolved the two disputed issues by deciding that the respondent's (claimant) compensable injury of \_\_\_\_\_, extends to the lumbar, cervical, thoracic, and left wrist areas after May 16, 2000; and that the claimant's compensable injury of \_\_\_\_\_, extends to and includes a psychological injury. The appellant (carrier) appealed, arguing that the hearing officer's determinations are against the great weight and preponderance of the evidence. The claimant responded, urging affirmance.

DECISION

Affirmed.

It is undisputed that the claimant sustained a compensable injury on \_\_\_\_\_. At issue was whether the claimant's compensable injury of \_\_\_\_\_, extends to the lumbar, cervical, thoracic, and left wrist areas after May 16, 2000; and, whether the claimant's compensable injury of \_\_\_\_\_, extends to and includes a psychological injury. There was conflicting evidence. The hearing officer, as finder of fact, is the sole judge of the relevance and materiality of the evidence as well as the weight and credibility that is to be given to the evidence. Section 410.165(a). It is for the hearing officer to resolve the inconsistencies and conflicts in the evidence and to decide what facts the evidence has established. Garza v. Commercial Insurance Company of Newark, New Jersey, 508 S.W.2d 701 (Tex. Civ. App.-Amarillo 1974, no writ). This is equally true regarding medical evidence. Texas Employers Insurance Association v. Campos, 666 S.W.2d 286 (Tex. App.-Houston [14th Dist.] 1984, no writ). The hearing officer was acting within his province as the fact finder in making these determinations. Nothing in our review of the record reveals that the hearing officer's determinations are so against the great weight and preponderance of the evidence as to be clearly wrong or manifestly unjust. Accordingly, no sound basis exists for us to disturb that determination on appeal. Cain v. Bain, 709 S.W.2d 175 (Tex. 1986).

In the claimant's response, he comments that the hearing officer admitted Carrier's Exhibit No. 7 over his objection. To the extent that this comment may be construed as a request for review of the hearing officer's evidentiary ruling, we note that a written request for appeal must be filed within 15 days of the date of receipt of the hearing officer's decision. Although the claimant's response is timely as a response, it is untimely as an appeal, therefore we will not consider the hearing officer's evidentiary ruling. See Section 410.202.

We affirm the decision and order of the hearing officer.

The true corporate name of the insurance carrier is **FIREMAN'S FUND INSURANCE COMPANY** and the name and address of its registered agent for service of process is

**DOROTHY C. LEADERER  
1999 BRYAN STREET  
DALLAS, TEXAS 75201.**

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Veronica L. Ruberto  
Appeals Judge

CONCUR:

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Daniel R. Barry  
Appeals Judge

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Robert W. Potts  
Appeals Judge